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EXAMINER

BAUTISTA, XIOMARA L

ART UNIT	PAPER NUMBER
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2173

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Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/467,074		<b>Applicant(s)</b> ORDING ET AL.	
	<b>Examiner</b> X L Bautista		<b>Art Unit</b> 2173	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/14/03 & 4/22/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22,24-72 and 74-135 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 109-117 is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) 6-8,29,30,33,34,39-41,65,66,69,70,75,77,78,101,102,105,106,124,125 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

Continuation of Disposition of Claims: Claims rejected are 1-5,9-22,24-28,31,32,35-38,42-64,67,68,71,72,74,76,79-100,103,104,107,108,118,-123,126-135.

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 2/14/03 and 4/22/03 have been fully considered but they are not persuasive.

A. Applicant argues that (paper #14, page 4, lines 11-15) "the *Selker* patent is concerned with elements of a user interface for a computer...the *Carpendale* publication is directed to 'limitations encountered in accessing internal regions' of three-dimensional representations of data...There is no apparent nexus between the two references."

In response to applicant's argument that there is no apparent nexus between *Selker* and *Carpendale*, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, *Selker* teaches a menu having icons which increase in size when the system detects that a cursor is within a threshold distance from a menu object, and *Carpendale* teaches repositioning of neighboring objects to accommodate the focal object which size has changed.

B. Applicant argues that (paper #14, page 4, lines 19-23) "...there is nothing in the *Carpendale* publication which suggests any applicability to menus in a graphical user interface...there is no indication that the blocks or cubes in the various figures of the publication represent icons or menu items. Nor does the publication deal with ease of access to icons and menu items that are already visible on the user's screen."

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Selker discloses a graphical user interface having a menu including objects which increase in size when the cursor is within a threshold distance, and Carpendale discloses 2D and 3D distortion viewing techniques; he teaches that some data can become buried and inaccessible, and that distortion creates a clear line of sight to a focus revealing sections (or objects) that had been previously obscured. Carpendale teachings provide suggestion for increasing the size of any kind of object (menu items, desktop icons, etc.) for providing easy access to the

object, for providing a clear line of sight to a focus object, for enhancing user recognition, etc.

C. Applicant argues (paper #18, page 3, lines 7-20) that "in the Selker patent, the size of the icon does not increase *from* the default *to* the maximum size upon detecting that the cursor is within the threshold distance, e.g.  $d=8$ . Rather...the size of the icon only increases to an intermediate value when the cursor is at this distance. In order for the icon to be increased to its maximum size, the user must continue to bring the cursor closer to the icon...while the icon eventually reaches a maximum size, it does not do so by being magnified from its default size 'upon detecting that the cursor is within said threshold distance' and then maintained at that size, as recited in claim 128. Rather, such a detection only causes the icon to be magnified an amount that is inversely related to its distance from the cursor. Increasing the icon to its maximum size requires further movement of the cursor by the user. Hence, scaling to maximum size is not automatically achieved by detecting that the cursor has come within the threshold distance."

In response, Selker teaches that repetitive expansion of the icon and the animation of the displayed image is highly effective for attracting the attention of the operator. Selker explains that the system may include several distance thresholds (col. 5, lines 19-67; col. 6, lines 1-17) and that the menu item's size is determined in inverse relation to the proximity of the cursor (col. 4, lines 21-29;

col. 8, lines 6-8). Selker also teaches that the size of a menu item can be expanded to an arbitrary size and the graphic cursor brought to the selection position (col. 6, lines 40-47); and that the size factor of the menu item can be limited by the application such as for limiting size expansion to prevent unintended selection or delimiting size expansion in the case of a requirement for mandatory input, etc. (col. 8, lines 46-60). Selker explains that differences in  $d$  provide for different degrees of expansion of respective icon; and that depending on the enhancement mode determined by the operational state of the application, any and all of the variations of display enhancement may be selectively produced (col. 9, lines 29-35). Selker discloses that different  $d$  (threshold distance) values are used to increase ease of recognition of small icons, which may be enlarged to attract the attention of the user, and the invention can be practiced with modifications (col. 4, lines 51-58; col. 9, lines 49-52). In short, Selker teaches that the size of a menu item is expanded in inverse proportionate relationship to the proximity of the cursor from a default height (e.g.,  $h$ ) to a fixed maximum level. For example, when distance = 8, height =  $h + 1$ ; when distance = 4, height =  $h + 2$ ; when distance = 2, height = maximum level.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5, 9, 10, 12-15, 20, 21, 25-27, 35-38, 42-46, 48-51, 56, 57, 61-63, 71, 74, 76, 79-82, 84-87, 92, 93, 98, 99, 107, 118-123, and 127-135 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Selker* (US 5,736,974) in view of *Carpendale et al* (Distortion Viewing Techniques for 3-Dimensional Data, 1996).

Claims 1, 35, 71, 107, and 118:

Selker discloses a method for improving visibility and selectability of icons. Enhanced visibility of icons and other types of menu items is provided by increasing size and or skew (animation) or both of one or more icons or menu items in a generally inverse relation to proximity of a cursor image address to particular icons or menu items (abstract; col. 4, lines 59-67; col. 9, lines 55-67; col. 10, lines 1-7). Selker does not teach repositioning the other tiles along the bar to accommodate the varied size of the one tile however, Carpendale discloses a method for distortion viewing techniques for 3-dimensional data that applies magnification and



distortion. Carpendale teaches that the method allows magnification of a chosen focus to display detail (page 48, col. 2, lines 13-28; figs. 6 & 16; page 50, col. 1, lines 18-31). Carpendale teaches repositioning the neighbors (other tiles) to accommodate the varied size of the focal object; the viewing access distortion restores the visibility of the central focus (page, col. 2, lines 28-31; figs. 1, 2, 3, 5, 11, 12, 16, 17, & 18).

Claims 2, 3, 4, 36, and 37:

See claim 1. See Selker, col. 8, lines 26-34; figures 1-5.

Claims 5, 38, 74, and 76:

See claim 1. Selker teaches that if icons E and P (fig. 5) are at arbitrary locations on the screen 61, 62 and the cursor at another arbitrary location, evaluation of  $d'$  and  $d''$  would ordinarily be done in regard to both orthogonal directions on the display by, for example, applying the well-known Pythagorean theorem to the distances between the icon address and the cursor address in both coordinate directions. Differences in  $d$  (distance) provide for different degrees of expansion of respective icons (col. 5, lines 33-55; col. 6, lines 1-17, 40-47; col. 7, lines 27-30, 36-44, 51-57).

Claims 9, 45, 81, 123, and 133:

See claim 1. Carpendale teaches the use of four different functions, orthogonal, step, sine, and Gaussian (page 47, col. 2, lines 5-10; page 50, col. 1,

lines 8-13).

Claims 10 and 82:

See claim 1. Selker does not teach the position of the icon menu (bar) however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to position Selker's bar at the bottom of the display because the user can easily access and manipulate the icons.

Claims 12, 48, and 84:

See claim 1. Selker teaches that a value is assigned to an attribute data representing a visual feature, the assigned value being from a group of at least three different values. The menu items are displayed in accordance with the assigned attribute data value (col. 9, lines 29-35, 63-67; col. 10, lines 1-7).

Claims 13, 49, and 85:

Selker teaches that the size of the menu item is limited in response to detection of the cursor location within the detection zone of the menu item (col. 8, lines 55-60; col. 9, lines 29-36; col. 10, lines 21-23).

Claim 14, 44, 50, 80, and 86:

Selker teaches that the user can enlarge the icon at will and also shrink the icon by moving the cursor toward the normal position of the icon in the unexpanded (default) icon menu (col. 6, lines 60-67; col. 7, lines 1-26).

Claims 15, 51, and 87:

Selker teaches that an icon can be expanded to an arbitrary size (col. 5, lines 34-55; col. 6, lines 1-17, 40-47; col. 7, lines 36-44).

Claims 20, 56, and 92:

See claim 1. See Selker, figures 1-5.

Claims 21, 57, and 93:

See claim 1. See Carpendale, figs. 1-25.

Claims 25 and 61:

See claim 1. Selker teaches that the size of a menu item (tiles) is changed when the cursor is positioned on or close to the item (abstract; col. 4, lines 7-28).

Claims 26, 62, 121, and 131:

See claim 1. See Selker, col. 5, lines 19-33.

Claims 27, 63, and 99:

See claim 1. See Selker, figures 1-5.

Claims 42, 119, and 129:

See claim 1. Carpendale teaches magnification of icons proximate to the focal object (figs. 1, 2, 3, 5, 11, 12, 15-17).

Claim 43:

Selker teaches user selection of a magnitude of the magnification (col. 6, lines 40-47, 60-67; col. 7, lines 1-11; col. 9, lines 29-36).

Claim 46:

See Selker, col. 7, lines 4-11; figures 1-5.

Claim 79:

Selker teaches that the size factor can be limited for limiting size expansion (col. 7, lines 18-25; col. 8, lines 1-10, 55-60).

Claim 98:

See claim 5. See Selker, col. 5, lines 33-55; col. 6, lines 1-17, 40-47; col. 7, lines 27-30, 36-44, 51-57; figs. 2-5.

Claims 120 and 130:

Selker teaches that icons are magnified by a factor that is preferably in some linear or non-linear inverse proportionate relationship to the proximity of the cursor (col. 5, lines 46-50).

Claims 122, 132, and 134:

Selker teaches that depending on the enhancement mode, any and all of the variations of display enhancement may be selectively produced (col. 9, lines 29-35).

Claims 127 and 135:

See claim 1. See Selker, figs. 1-5.

Claim 128:

See claims 1, 5, and 26. Selker explains that the system may include

several distance thresholds (col. 5, lines 19-67; col. 6, lines 1-17) and that the menu item's size is determined in inverse relation to the proximity of the cursor (col. 4, lines 21-29; col. 8, lines 6-8). Selker also teaches that the size of a menu item can be expanded to an arbitrary size and the graphic cursor brought to the selection position (col. 6, lines 40-47); and that the size factor of the menu item can be limited by the application such as for limiting size expansion to prevent unintended selection or delimiting size expansion in the case of a requirement for mandatory input, etc. (col. 8, lines 46-60). Selker explains that differences in d provide for different degrees of expansion of respective icon; and that depending on the enhancement mode determined by the operational state of the application, any and all of the variations of display enhancement may be selectively produced (col. 9, lines 29-35). Selker teaches that the size of a menu item is expanded in inverse proportionate relationship to the proximity of the cursor from a default height (e.g., h) to a fixed maximum level, and the height is maintained at that fixed level. For example, when distance = 8, height =  $h + 1$ ; when distance = 4, height =  $h + 2$ ; when distance = 2, height = maximum level, which is maintained.

2. Claims 11, 16, 17, 22, 24, 47, 52, 53, 58-60, 72, 83, 88, 89, 94-97, 108, and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Selker/Carpendale* in view of *Malamud et al* (US 5,825,357).

Claims 11, 47, and 83:

See claim 1. Selker/Carpendale does not teach that there is a gap between the bar and the bottom of the display. However, Malamud discloses a tool interface, which includes a tray section 12 and an applications section 14. Display mode controls associated with the tray section enable a user to define how, where, and when the tray section and computer resources associated with the tray are displayed. The user may either attach the tray section to any of the four sides of the display screen or display the tray section as a palette (fig. 3). In the palette mode of display for the tray section, both the dimensions and position of the tray section are modifiable by the user (abstract; col. 4, lines 35-48). Therefore, it would have been obvious to an artisan in the art at the time of invention to include Malamud's palette mode in Selker/Carpendale's invention because the user is enabled to define the bar's position leaving, or not, a space between the bar and the bottom of the display.

Claims 16, 17, 52, 53, 88, and 89:

Selker/Carpendale does not teach that the bar is removed from the display when the cursor moves away from the bar. However, Malamud teaches that in the collapse mode the tray section is collapsed to a width of four pixels, enabling the applications section to occupy substantially the entire screen (col. 5, lines 52-67; col. 6, lines 1-13). Thus, it would have been obvious to a person having ordinary

skill in the art at the time of invention to include Malamud's teachings in Selker/Carpendale's invention because the user is enabled to instruct the computer system to hide or minimize the toolbar when needing to occupy the entire screen.

Claims 22, 24, 58, 60, 94, 96, and 97:

See claim 20. Malamud teaches a permanently displayed extended command area 23 of the tray section 12, referred to as an embedded computer resource. The embedded computer resource includes a system icon 28 and a digital clock display 44, but other computer resources can be added to the command area 22 (col. 6, lines 41-60; col. 9, lines 49-61).

Claims 59 and 95:

See claim 22. See Malamud, figure 2.

Claim 72:

See claim 21. Malamud teaches that tiles have a minimum size, which is changed when the panel exceeds the minimum size requirement (col. 5, lines 12-22; col. 6, lines 41-60; col. 10, lines 54-60).

Claim 108:

See claim 22. Malamud teaches that the user can control the allocation of the tiles (col. 7, lines 34-36; col. 10, lines 43-53; col. 11, lines 7-20; col. 13, lines 47-67; col. 14, lines 1-11, 48-53).

Claim 126:

See claim 24. Malamud teaches permanent and nonpermanent objects embedded in the bar. Malamud teaches icons (outermost ends) 28 and 34, which are predetermined, and the other icons are user-selectable (col. 6, lines 41-60; fig. 2).

3. Claims 18, 19, 54, 55, 90, and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Selker/Carpendale* in view of *Ludolph et al* (US 5,657,049).

Claims 18, 54, and 90:

Selker/Carpendale does not teach that when the bar is removed it appears to slide into an edge of the display in response to a keystroke. However, Ludolph discloses a Desk Drawer, which is closed (removed) when the cursor pointer 50 leaves the drawer region 35. Mouse and/or keyboard commands may be effectuated to close the Desk Drawer (col. 9, lines 31-39; col. 13, lines 16-22). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include Ludolph's teachings in Selker/Carpendale's invention because animation creates the illusion of movement, it adds realism, the drawer not only disappears but the user can actually see it opening and closing.



Claims 19, 55, and 91:

See claim 18. Ludolph teaches that the computer automatically closes (autohide) Desk Drawer when the cursor pointer leaves the drawer region 35 (col. 13, lines 16-22).

4. Claims 28, 31, 32, 64, 67, 68, 100, 103, and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Selker/Carpendale* in view of *Mackinlay et al* (US 6,256,649 B1).

Claims 28, 64, and 100:

Selker/Carpendale does not teach that labels associated with the tiles are displayed with a first predetermined fade-in rate when the cursor moves proximate to a tile from another tile. However, Mackinlay discloses an animated spreadsheet wherein a user can specify the current cell just by moving the mouse cursor on the cell. When the cursor comes in a cell, the data flow graph associated with the cell gradually appear on the screen (fades in), and it gradually disappears when the cursor moves away from the cell (fades out), (abstract; col. 3, lines 11-26; col. 7, lines 32-37; col. 8, lines 21-48). Thus, it would have been obvious to an artisan in the art at the time the invention was made to include a fade-in and fade-out rate in Selker/Carpendale's invention because the gradual increase in visibility (fade-in) allows the icon closest to the cursor to take up most of the user's attention and

the gradual disappearance (fade-out) avoids confusion when making a selection.

Claims 31, 32, 67, 68, 103, and 104:

See claim 28. Mackinlay teaches that when the cursor comes in a cell, the data flow graph associated with the cell gradually appear on the screen (fades in), and it gradually disappears when the cursor moves away from the cell (fades out), (abstract; col. 3, lines 11-26; col. 7, lines 32-37; col. 8, lines 21-48).

***Allowable Subject Matter***

5. Claims 109-117 are allowed.

6. Claims 6-8, 29, 30, 33, 34, 39-41, 65, 66, 69, 70, 75, 77, 78, 101, 102, 105, 106, 124, and 125 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not teach or suggest a predefined relationship between an effect width  $W$ , a default height  $h$ , and a selected maximum height  $H$  including a function  $S$  defined as:  $S = ((H - h) \div \sin(\pi \times (h \div 2) \div (W \times 2)))$ , as recited in claims 6, 39, 75, and 109.

Prior art of record does not teach or suggest a second predetermined fade-in

rate when the cursor moves proximate to a tile from outside a region associated with the bar, as recited in claims 29, 65, 103, and 112; and a second fade out rate when the cursor moves out of a region associated with the bar, as recited in claims 33, 69, and 105.

Selker (US Patent 5,736,974) discloses a distance  $d$ , which can be computed from an address within the icon menu 30. The icon menu must be unaffected for cursor image positions over most of the display area or window. Some specific or inherent threshold of proximity between the icon menu and cursor selection position 25 should be provided (col. 5, lines 19-32; col. 6, lines 10-17; col. 7, lines 35-43; col. 8, lines 37-45). Selker fails to teach that the position of the tile varies based on a predefined relationship including a function  $S$  defined as  $S = ((H - h) \div \text{sine}(\pi \times (h \div 2) \div (W \times 2)))$ .

Mackinlay et al (US Patent 6,256,649 B1) discloses an animated spreadsheet wherein a brief animation is displayed after a user indicates interest in an annotation. When the cursor comes in a cell the data flow graph associated with the cell gradually appears on the screen (fades in), and it gradually disappears when the cursor moves away from the cell (fades out). Mackinlay fails to teach or suggest a second predetermined fade-in rate when the cursor moves proximate to a tile from outside a region associated with the bar, and a second fade out rate when the cursor moves out of a region associated with the bar.

Carpendale discloses distortion-viewing techniques for 3-dimensional data that solves the problem of internal access using a distortion function that creates a clear line of sight to the focus revealing sections previously obscured. The distortion is symmetric about the line of sight and is smoothly integrated back into the original 3D layout. Carpendale teaches that the size of an icon can be changed when the cursor is placed close to it however, Carpendale fails to teach or suggest that the position of the icon changes in accordance with a predefined relationship including a function  $S$  defined as  $S = ((H - h) \div \sin(\pi \times (h \div 2) \div (W \times 2)))$ .

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to X L Bautista whose telephone number is (703) 305-3921. The examiner can normally be reached on M-Th (8:00-18:00) Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Cabeca can be reached on (703) 308-3116. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'X L Bautista', with a long horizontal flourish extending to the left.

X L Bautista  
Patent Examiner  
Art Unit 2173

xlb  
April 24, 2003